

§ 1955.4

7 CFR Ch. XVIII (1–1–08 Edition)

taxes or assessments which are or will become a lien against the property which is superior to FmHA or its successor agency under Public Law 103–354's security instrument(s).

Recoverable cost is a contractual or noncontractual program loan cost expense chargeable to a borrower, property account, or part of the loan subsidy.

Servicing official. For loans to individuals as defined in paragraph (d) of this section, the servicing official is the County Supervisor. For insured B&I loans, the servicing official is the State Director. For RDLF and IRP, the servicing official is the Director, Business and Industry Division. For NNC, the servicing official is the Director, Community Facility Division. For all other types of loans, the servicing official is the District Director.

[50 FR 23904, June 7, 1985, as amended at 50 FR 45782, Nov. 1, 1985; 52 FR 26138, July 13, 1987; 53 FR 27826, July 25, 1988; 53 FR 30664, Aug. 15, 1988; 53 FR 35762, Sept. 14, 1988; 56 FR 15821, Apr. 18, 1991; 56 FR 29402, June 27, 1991; 56 FR 67484, Dec. 31, 1991; 58 FR 68723, Dec. 29, 1993; 60 FR 55147, Oct. 27, 1995; 62 FR 44395, Aug. 21, 1997; 63 FR 41716, Aug. 5, 1998]

§ 1955.4 Redelegation of authority.

Authorities will be redelegated to the extent possible, consistent with program requirements and available resources.

(a) Except as provided in §1900.6(c) of this chapter, any authority in this subpart which is specifically delegated to the Administrator or to an Deputy Administrator may only be delegated to a State Director. The State Director cannot redelegate such authority.

(b) Except as provided in paragraph (a) of this section, the State Director is authorized to redelegate, in writing, any authority delegated to the State Director in this subpart to a Program Chief, Program Specialist or Property Management Specialist on the State Office staff; except the authority to approve or disapprove foreclosure as outlined in §1955.115(a)(2) of this subpart may not be redelegated. However, a duly-designated Acting State Director may approve or disapprove foreclosure.

(c) The District Director is authorized to redelegate, in writing, any authority delegated to the District Direc-

tor in this subpart to an Assistant District Director or District Loan Specialist determined by the District Director to be qualified; except the authority to approve or disapprove foreclosure as outlined in §1955.15(a)(1) of this subpart may not be redelegated. However, a duly designated Acting District Director may approve or disapprove foreclosure. Authority of District Directors in this subpart applies to Area Loan Specialists in Alaska and the Director for the Western Pacific Territories.

(d) The County Supervisor is authorized to redelegate, in writing, any authority delegated to the County Supervisor in this subpart to an Assistant County Supervisor, GS–7, or above, determined by the County Supervisor to be qualified. Authority of County Supervisors in this subpart applies to Area Loan Specialists in Alaska and Area Supervisors in the Western Pacific Territories and American Samoa.

(e) The monetary limitations on acceptance of voluntary conveyance as provided in §1955.10(a) of this subpart may *not* be redelegated from a higher-level official to a lower level official.

[53 FR 27826, July 25, 1988, as amended at 54 FR 6875, Feb. 15, 1989; 59 FR 43441, Aug. 24, 1994; 62 FR 44395, Aug. 21, 1997]

§ 1955.5 General actions.

(a) *Assignment of notes to FmHA or its successor agency under Public Law 103–354.* When liquidation action is approved and the insured note is not held in the County or District Office, the approval official will request the Finance Office to purchase the note and forward it to the appropriate office. Voluntary conveyance may be closed pending receipt of the note(s), and foreclosure may also be processed pending receipt of the note(s), unless the original note is required in connection with the foreclosure action.

(b) *Execution of documents.* (1) After liquidation of loans to individuals has been approved by the appropriate official, the County Supervisor is authorized to execute all necessary forms and documents except notices of acceleration required to complete transactions covered by this subpart.

(2) After liquidation of loans to organizations has been approved by the appropriate official, the District Director is authorized to execute all forms and documents for completion of the liquidation except:

(i) Notice of acceleration; or
 (ii) Other form or document which specifically required State or National Office approval because of monetary limits or policy statement established elsewhere in this subpart.

(c) *Unused loan funds.* (1) Funds remaining in a supervised bank account will be handed in accordance with § 1902.15 of subpart A of part 1902 of this chapter before a voluntary conveyance or foreclosure is processed.

(2) Funds remaining in a construction or other account will be applied to the borrower's FmHA or its successor agency under Public Law 103-354 accounts.

(d) *Payment of costs.* Costs related to liquidation of a loan or acquisition of property will be paid according to FmHA or its successor agency under Public Law 103-354 Instruction 2024-A (available in any FmHA or its successor agency under Public Law 103-354 office) as either a recoverable or non-recoverable cost as defined in § 1955.3 of this subpart.

(e) *Escrow funds.* Any funds remaining in the borrower's escrow account at the time of liquidation by voluntary conveyance or foreclosure are non-refundable and will be credited to the borrower's loan account.

[50 FR 23904, June 7, 1985, as amended at 56 FR 6953, Feb. 21, 1991, 57 FR 36590, Aug. 14, 1992]

§§ 1955.6-1955.8 [Reserved]

§ 1955.9 Requirements for voluntary conveyance of real property located within a federally recognized Indian reservation owned by a Native American borrower-owner.

(a) The borrower-owner is a member of the tribe that has jurisdiction over the reservation in which the real property is located. An Indian tribe may also meet the borrower-owner criterion if it is indebted for Farm Credit Programs loans.

(b) A voluntary conveyance will be accepted only after all preacquisition primary and preservation servicing ac-

tions have been considered in accordance with subpart S of part 1951 of this chapter.

(c) When all servicing actions have been considered under subpart S of part 1951 of this chapter and a positive outcome cannot be achieved, the following additional actions are to be taken:

(1) The county official will notify the Native American borrower-owner and the tribe by certified mail, return receipt requested, and by regular mail if the certified mail is not received, that:

(i) The borrower-owner may convey the real estate security to FSA and FSA will consider acceptance of the property into inventory in accordance with paragraph (d) of this section.

(ii) The borrower-owner must inform FSA within 60 days from receipt of this notice of the borrower and owner's decision to deed the property to FSA;

(iii) The borrower-owner has the opportunity to consult with the Indian tribe that has jurisdiction over the reservation in which the real property is located, or counsel, to determine if State or tribal law provides rights and protections that are more beneficial than those provided the borrower-owner under Agency regulations;

(2) If the borrower-owner does not voluntarily deed the property to FSA, not later than 30 days before the foreclosure sale, FSA will provide the Native American borrower-owner with the following options:

(i) The Native American borrower-owner may require FSA to assign the loan and security instruments to the Secretary of the Interior. If the Secretary of the Interior agrees to such an assignment, FSA will be released from all further responsibility for collection of any amounts with regard to the loans secured by the real property.

(ii) The Native American borrower-owner may require FSA to complete a transfer and assumption of the loan to the tribe having jurisdiction over the reservation in which the real property is located if the tribe agrees to the assumption. If the tribe assumes the loans, the following actions shall occur:

(A) FSA shall not foreclose the loan because of any default that occurred before the date of the assumption.